

UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18- 01078

Defendant No. 1:

A NORTH AMERICAN ARMS, .22  
CALIBER DERRINGER, SERIAL  
NUMBER E298473,

Defendant No. 2:

FIVE ROUNDS OF .22 CALIBER  
AMMUNITION,

Defendants.

**COMPLAINT FOR FORFEITURE IN REM**

Plaintiff, United States of America, by and through its attorneys, Stephen R. McAllister, United States Attorney for the District of Kansas, and Annette Gurney, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

**NATURE OF THE ACTION**

1. This is an action to forfeit and condemn to the use and benefit of the United States of America the following property: Defendant No. 1: A North American Arms, .22 caliber Derringer, serial number E298473 and Defendant No. 2: Five rounds of .22 caliber ammunition for violations of 21 U.S.C. ' 841 et seq.

**THE DEFENDANT IN REM**

2. The defendants were seized on October 3, 2017, by the Kansas Highway Patrol during a traffic stop on I-70 at milepost 28, in Sherman County, in the District of Kansas.

### **JURISDICTION AND VENUE**

3. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. ' 1345, and over an action for forfeiture under 28 U.S.C. ' 1355.

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. 1355(b). Upon filing this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the defendants pursuant to 28 U.S.C. ' 1355(d) and Supplemental Rule G(3)(c).

5. Venue is proper in this district pursuant to 28 U.S.C. ' 1355(b)(1), because an act or omission giving rise to the forfeiture occurred in this district.

### **BASIS FOR FORFEITURE**

6. The defendants are subject to forfeiture pursuant to 18 U.S.C. ' 924(d) as they were used or involved in a violation of federal criminal law. Defendant No. 1 is also subject to forfeiture pursuant to 21 U.S.C. ' 881(a)(11) as it constitutes a firearm used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances.

### **FACTS**

7. Supplemental Rule G(2)(f) requires this complaint to state sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at

trial. Such facts and circumstances supporting the seizure and forfeiture of the defendants are contained in Exhibit A which is attached hereto and incorporated by reference.

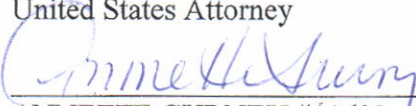
**CLAIM FOR RELIEF**

WHEREFORE, the plaintiff requests that the Court issue a warrant of arrest *in rem* for the arrest of the defendants; that notice of this action be given to all persons who reasonably appear to be potential claimants of interests in the defendants; that the defendants be forfeited and condemned to the United States of America; that the plaintiff be awarded its costs and disbursements in this action; and for such other and further relief as this Court deems proper and just.

The United States hereby requests that trial of the above entitled matter be held in the City of Wichita, Kansas.

Respectfully submitted,

STEPHEN R. MCALLISTER  
United States Attorney

  
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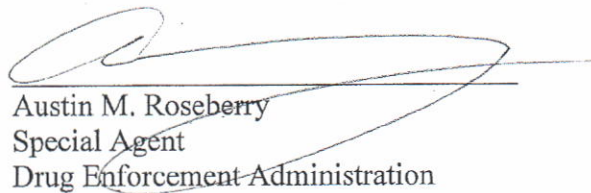
**DECLARATION**

I, Austin M. Roseberry, am a Special Agent with the Drug Enforcement Administration.

I have read the contents of the foregoing Complaint for Forfeiture, and the exhibit thereto, and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 9<sup>th</sup> day of March, 2018.

  
Austin M. Roseberry  
Special Agent  
Drug Enforcement Administration




**AFFIDAVIT IN SUPPORT OF A COMPLAINT FOR FORFEITURE**

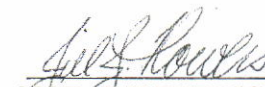
I, Austin M. Roseberry, being first duly sworn, depose and state:

1. I have been employed as a Special Agent by the Drug Enforcement Administration (DEA) since 2012. I first served three years in Detroit, Michigan and then transferred to the Dayton, Ohio Resident Office. My duties include investigation of violations of the Controlled Substance Act, Title 21 of the United States Code and the forfeitures thereto.
2. The information contained in this affidavit is known to me through personal direct knowledge, and/or through a review of official reports prepared by other law enforcement personnel. This affidavit is submitted in support of a complaint for civil forfeiture.
3. On October 3, 2017, Kansas Highway Patrol Trooper Phillip Baker stopped a car for a traffic violation on I-70 at milepost 28, in Sherman County in the District of Kansas.
4. The driver and only occupant of the car was Samantha E. MURPHY, who presented an Arkansas driver's license. The car was a rental vehicle that had been rented in Cincinnati, Ohio on September 28, 2017 with a return date on October 3, 2017.
5. During the event, Goodland, Kansas Police Officer Jason Erhart deployed his K9 around the car. Officer Erhart advised Trooper Baker that the K9 indicated to the odor of narcotics coming from the car.
6. Trooper Baker opened the trunk of the car and saw a small gym bag. Inside the gym bag he found a tan plastic bag sitting on top of clothes. When Trooper Baker opened the tan plastic bag, he found a clear plastic bag that contained a white crystal substance. A field test of the white crystal substance indicated positive for the properties of methamphetamine. The approximate weight of the white crystal substance was one pound, two ounces.

7. Trooper Baker also found a firearm in the bag. This firearm has been identified as a North American Arms, .22 caliber Derringer, serial number E298473. Also recovered were five rounds of .22 caliber ammunition. A metal container in the center console of the car contained a glass smoking device with a white residue in it.
8. Based upon the information set out above, I have probable cause to believe that the North American Arms, .22 caliber Derringer, serial number E298473 and the five rounds of .22 caliber ammunition seized in this investigation by the Kansas Highway Patrol constitutes property that was used or intended to be used to facilitate one or more violations of Title 21, U.S.C. § 841 et.seq. Accordingly, the firearm and ammunition are subject to forfeiture pursuant to 21 U.S.C. § 881.

  
Austin M. Roseberry  
Special Agent  
Drug Enforcement Administration

Sworn to and subscribed before me this 9th day of March, 2018.

  
NOTARY PUBLIC  
Jill J. Flowers  
my commission expires 11-9-18